

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States Courts  
Southern District of Texas  
FILED

SEP 12 2003

Michael N. Milby, Clerk

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In re ENRON CORPORATION §  
SECURITIES, DERIVATIVE & "ERISA" §  
LITIGATION §  
§  
§

MDL 1446  
and Consolidated, Related  
and Coordinated Cases

This Document Relates To: §  
§  
§

MARK NEWBY, et al., Individually and on §  
Behalf of All Others Similarly Situated, §  
§

Civil Action No. H-01-3624  
and Consolidated, Related  
and Coordinated Cases

Plaintiffs, §  
§  
§

vs. §  
§  
§

ENRON CORP., et al., §  
§  
§

Defendants. §  
§  
§

AGREED MOTION OF LEAD PLAINTIFF AND THE  
BANK DEFENDANTS FOR INTERIM CONFIDENTIALITY ORDER

1656

TO THE HONORABLE MELINDA HARMON, UNITED STATES DISTRICT JUDGE:

The Lead Plaintiff in *Newby* and Defendants J.P. Morgan Chase & Co., J.P. Morgan Securities Inc., JP Morgan Chase Bank, Citigroup Inc., Citibank N.A., Salomon Smith Barney Inc., Salomon Brothers International, Credit Suisse First Boston LLC (formerly known as Credit Suisse First Boston Corporation), Credit Suisse First Boston (USA), Inc., Pershing LLC, Canadian Imperial Bank of Commerce, CIBC World Markets Corp., f/k/a CIBC Oppenheimer Corp., Bank of America Corporation, Banc of America Securities LLC, Merrill Lynch & Co., Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Barclays PLC, Barclays Bank PLC, Barclays Capital Inc., Lehman Brothers Inc. and Lehman Brothers Holdings Inc. (collectively, the “Bank Defendants”) respectfully submit this Agreed Motion for Interim Confidentiality Order. In support of their Motion, movants respectfully show the Court the following:

1. In accordance with the Court’s Scheduling Order, dated July 11, 2003, the Bank Defendants shall substantially complete their document productions in response to Lead Plaintiff’s currently outstanding Rule 34 requests by October 1, 2003.
2. In order to facilitate the production of documents and other written discovery, the *Newby* Plaintiffs and the Bank Defendants have agreed that all documents and written discovery (including but not limited to responses to Lead Plaintiff’s interrogatories) produced by the Bank Defendants on or before October 1, 2003, and the information reflected therein, (a) shall be used by the *Newby* Plaintiffs, the Bank Defendants and any other parties in the *In re Enron Corporation Securities, Derivative and “ERISA” Litigation* (including all consolidated, related and coordinated cases) (collectively, the “Consolidated Actions”), solely in and for the purposes of the Consolidated Actions and shall not be

disclosed to anyone other than counsel of record in those cases, employees of counsel of record, employees of parties in the Consolidated Actions for the purposes of assisting or consulting with counsel in those Actions or in preparation for or during their depositions or trial testimony, experts retained by parties in the Consolidated Actions and the court-ordered mediator in these actions, each of whom shall restrict use and disclosure of such documents, written discovery and information as provided in this paragraph, and (b) shall not be filed with any court without first obtaining the consent of the Bank Defendant(s) that produced the material.

3. If any Bank Defendant wishes to file a confidentiality motion with respect to any documents or written discovery produced on or before October 1, 2003, such motion must be filed on or before October 15, 2003.

4. The restrictions of Paragraph 2 above shall lift on October 16, 2003 with respect to all documents and written discovery produced by the Bank Defendants on or before October 1, 2003 that are *not* the subject of confidentiality motions filed by the Bank Defendants pursuant to Paragraph 3 above.

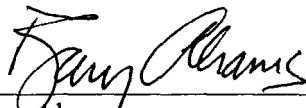
5. With respect to documents and written discovery that *are* the subject of a confidentiality motion filed pursuant to Paragraph 3 above, the restrictions of Paragraph 2 above shall remain in effect until the Court enters a decision resolving the confidentiality motion, at which time such decision shall govern.

6. With respect to all documents and written discovery produced by the Bank Defendants after October 1, 2003, the provisions of paragraphs 2-5 above shall apply, except that the Bank Defendants shall have thirty (30) days from the date of production or

response date to file confidentiality motions, and the restrictions of Paragraph 2 shall lift on the thirty-first day from the date of production or response date with respect to documents and written discovery that are *not* the subject of a confidentiality motion.

7. Nothing in this Agreed Motion for Interim Confidentiality Order is intended, or shall be construed, to prohibit any party from seeking from the Court protective orders that would establish restrictions on the use and disclosure of documents and written discovery that would be more restrictive than, or otherwise different from, the restrictions on use and disclosure set forth in this Agreed Motion.

Dated: September 12, 2003

By:   
Barry Abrams  
Texas Bar No. 00822700  
Southern District I.D. No. 2138  
ABRAMS SCOTT & BICKLEY, L.L.P.  
700 Louisiana, Suite 1800  
Houston, Texas 77002  
Telephone: (713) 228-6601

David H. Braff  
Michael T. Tomaino, Jr.  
Jeffrey T. Scott  
Adam R. Brebner  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, New York 10004  
Telephone: (212) 558-4000  
Facsimile: (212) 558-3588

ATTORNEYS FOR DEFENDANTS  
BARCLAYS PLC, BARCLAYS BANK PLC  
AND BARCLAYS CAPITAL INC.

KING & PENNINGTON, LLP

By: Charles King by BA

Charles King

Texas Bar No. 11470000

Southern District I.D. No. 01344

1100 Louisiana Street, Suite 5055

Houston, Texas 77002

Telephone: (713) 225-8404

Facsimile: (713) 225-8488

Gregory A. Markel (Attorney-in-Charge)

Ronit Setton

Nancy I. Ruskin

CADWALADER, WICKERSHAM

& TAFT LLP

100 Maiden Lane

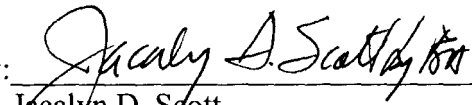
New York, New York 10038

Telephone: (212) 504-6000

Facsimile: (212) 504-6666

ATTORNEYS FOR DEFENDANTS BANK  
OF AMERICA CORPORATION AND BANC OF  
AMERICA SECURITIES LLC

By:



Jacalyn D. Scott

Texas Bar No. 1789900

Southern District I.D. No. 3007

Eugene B. Wilshire

WILSHIRE SCOTT & DYER P.C.

3000 One Houston Center

1221 McKinney

Houston, Texas 77010

Telephone: (713) 651-1221

Facsimile: (713) 651-0020

Brad S. Karp

Mark F. Pomerantz

Richard A. Rosen

Michael E. Gertzman

Claudia Hammerman

PAUL, WEISS, RIFKIND, WHARTON

& GARRISON LLP

1285 Avenue of the Americas

New York, New York 10019-6064

Telephone: (212) 373-3000

Facsimile: (212) 757-3990

ATTORNEYS FOR DEFENDANTS  
CITIGROUP INC., CITIBANK N.A.,  
SALOMON SMITH BARNEY INC. AND  
SALOMON BROTHERS INTERNATIONAL

By: Lawrence D. Finder

Lawrence D. Finder  
Attorney-in-Charge  
Texas Bar No. 07007200  
Southern District I.D. No. 602  
Odean L. Volker  
Texas Bar No. 20607715  
Southern District I.D. No. 12685  
HAYNES AND BOONE, LLP  
1000 Louisiana, Suite 4300  
Houston, Texas 77002  
Telephone: (713) 547-2000  
Facsimile: (713) 547-2600

Richard W. Clary  
Julie A. North  
CRAVATH, SWAINE & MOORE LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019-7475  
Telephone: (212) 474-1000  
Facsimile: (212) 474-3700

ATTORNEYS FOR DEFENDANTS  
CREDIT SUISSE FIRST BOSTON LLC (formerly  
known as CREDIT SUISSE FIRST BOSTON  
CORPORATION), CREDIT SUISSE FIRST  
BOSTON (USA), INC. AND PERSHING LLC

By: Richard W. Mithoff

Richard Warren Mithoff  
Attorney-in-Charge  
Texas Bar No. 14228500  
Southern District I.D. No. 2102  
Janie L. Jordan  
Texas Bar No. 11012700  
Southern District I.D. No. 17407  
MITHOFF & JACKS, L.L.P.  
One Allen Center, Penthouse  
500 Dallas Street,, Suite 3450  
Houston, Texas 77002  
Telephone: (713) 654-1122  
Facsimile: (713) 739-8085

Charles A. Gall  
Texas Bar No. 07281500  
Southern District I.D. No. 11017  
James W. Bowen  
Texas Bar No. 02723305  
Southern District I.D. No. 16337  
JENKINS & GILCHRIST, P.C.  
1445 Ross Avenue, Suite 3200  
Dallas, Texas 75202  
Telephone: (214) 855-4500  
Facsimile: (214) 855-4300

Bruce D. Angiolillo  
Thomas C. Rice  
David J. Woll  
Jonathan K. Youngwood  
SIMPSON THACHER & BARTLETT LLP  
425 Lexington Avenue  
New York, New York 10017  
Telephone: (212) 455-2000  
Facsimile: (212) 455-2502

ATTORNEYS FOR DEFENDANTS  
J.P. MORGAN CHASE & CO., J.P. MORGAN  
SECURITIES INC. AND JPMORGAN CHASE  
BANK



By: Taylor M. Hicks by BVO  
Taylor M. Hicks  
Texas Bar No. 09585000  
Southern District I.D. No. 3079  
Stephen M. Loftin  
Texas Bar No. 12489510  
Southern District I.D. No. 12676  
KICKS THOMAS & LILIENSTERN, LLP  
700 Louisiana, Suite 1700  
Houston, Texas 77002  
Telephone: (713) 547-9100  
Facsimile: (713) 547-9150

Herbert S. Washer  
James D. Miller  
Ignatius A. Grande  
CLIFFORD CHANCE US LLP  
200 Park Avenue, Suite 5200  
New York, New York 10166-0153  
Telephone: (212) 878-8000  
Facsimile: (212) 878-8375

Robert F. Serio  
Mitchell A. Karlan  
Marshall R. King  
GIBSON, DUNN & CRUTCHER LLP  
200 Park Avenue  
New York, New York 10166-0193  
Telephone: (212) 351-4000  
Facsimile: (212) 351-4035

ATTORNEYS FOR DEFENDANTS  
MERRILL LYNCH & CO., INC. AND MERRILL  
LYNCH, PIERCE, FENNER & SMITH,  
INCORPORATED

By: William H. Knull, III

William H. Knull, III  
Texas Bar No. 11636900  
Southern District LD No. 7701  
MAYER, BROWN, ROWE & MAW  
700 Houston Street, Suite 3600  
Houston, Texas 77002-2730  
Telephone: (713) 221-1651

Alan N. Salpeter  
Michele Odorizzi  
T. Mark McLaughlin  
MAYER, BROWN, ROWE & MAW  
190 South LaSalle Street  
Chicago, Illinois 60603  
Telephone: (312) 782-0600

B.J. Rothbaum  
HARTZOG CONGER CASON & NEVILLE  
1600 Bank of Oklahoma Plaza  
201 Robert S. Kerr Avenue  
Oklahoma City, Oklahoma 73102  
Telephone: (405) 235-7000

ATTORNEYS FOR DEFENDANTS CANADIAN  
IMPERIAL BANK OF COMMERCE AND CIBC  
WORLD MARKETS CORP., f/k/a CIBC  
OPPENHIEMER CORP.